

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

RAYNARD McDOWELL,

Petitioner,

vs.

WARDEN CONSTANCE REESE,

Respondent.

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CIVIL ACTION NO. 09-KOB-RRR-1207-E

MEMORANDUM OPINION

This is a habeas corpus petition brought pursuant to 28 U.S.C. § 2241. The magistrate judge entered a report and recommendation recommending that the respondent's motion to dismiss be granted and that the action be dismissed.

The petition filed objections in which he concedes that in light of the fact that his release date is now November 11, 2011, he is not eligible for placement in a halfway house, which was the relief sought in his petition. Additionally, the petitioner informs the court that he has been transferred to the Federal Medical Center in Lexington, Kentucky, so he is no longer incarcerated in the Northern District of Alabama, and this court no longer has jurisdiction over his custodian.

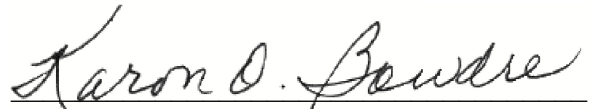
However, the petitioner requests that instead of dismissing his petition, this court stay the petition and transfer it to the United States District Court for the Eastern District of Kentucky. He reasons that if his case is pending in federal court in Kentucky when he is eligible for consideration for placement in a halfway house under the Second Chance Act of 2007, he will not be required to exhaust any administrative remedies when his case becomes ripe for review. The petitioner further requests that if the case is dismissed, that it be dismissed without prejudice, so he can re-file in the appropriate district when the case is ripe for review.

The fact that his case is not ripe for review now militates against staying the case and/or transferring the case to the Eastern District of Kentucky. Therefore, the motion to stay the case and the motion to transfer the case are DENIED.

After considering the entire file in this action, including the report and recommendation and the objections, the court has reached an independent conclusion that the report and recommendation is due to be adopted and approved.

Accordingly, the court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. This habeas petition is due to be dismissed *without prejudice*. An appropriate order will be entered.

Done this 8th day of February 2010.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE